

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

DIRECTV, INC.,

Plaintiff,

v.

GARY CAIN *et al.*,

Defendants.

03-CV-5632 (WJM)

**ORDER GRANTING PLAINTIFF'S
MOTION FOR DAMAGES UNDER
47 U.S.C. § 605 AGAINST
DEFENDANT ROBERT
CRISCIONE**

This matter comes before the Court on plaintiff's Notice of Motion for Monetary Damages Under 47 U.S.C. § 605 Against Defendant Robert Criscione filed in response to this Court's April 20, 2005 Order denying plaintiff monetary damages under 18 U.S.C. § 2520(c)(2) and providing plaintiff with an opportunity to seek monetary damages under 47 U.S.C. § 605.

Previously, plaintiff sought \$10,000 in damages under § 2520. In its April 20, 2005 Order, this Court found that such an award would be excessive and provide plaintiff with a windfall. Plaintiff now comes before the Court seeking a more modest amount of damages, between \$4,000 and \$5,000, plus post-judgment interest. (Br. at 6). Under § 605, the Court, in its discretion, may award a recovery to the aggrieved party in an amount between \$1,000 and \$10,000. Defendant bought the device approximately a year and a half before DIRECTV learned of its purchase. Plaintiff argues, and this Court agrees, that given the facts of this case an award of \$1,000 would not deter unscrupulous individuals, such as the defendant, from buying pirate devices in the future. Consequently, the Court believes that a reasonable and appropriate damages award is \$4,500. That amount not only compensates DIRECTV for the year and a half of potentially misappropriated services, but punishes the defendant for his reprehensible conduct and thereby creates a deterrent effect for would-be perpetrators.

Plaintiff also notes in footnote 1 of its brief that a typographical error exists in the Court's April 20, 2005 Order. That error is corrected as set forth below.

Having considered plaintiff's submissions in support of the instant Motion, as well as the papers submitted in connection with plaintiff's previously-filed Motion for Default Judgment, and for the reasons stated above, and for good cause shown,

IT IS on this 12th day of May 2005, hereby

ORDERED that judgment be entered in favor of plaintiff, DIRECTV, Inc., in the amount of \$4,500 for defendant Criscione's violation of 47 U.S.C. § 605; and it is further

ORDERED that the Court's April 20, 2005 Order is hereby amended such that the phrase "**ORDERED** that plaintiff's request to permanently enjoin plaintiff . . ." shall read: "**ORDERED** that plaintiff's request to permanently enjoin defendant"

s/ William J. Martini

William J. Martini, U.S.D.J.